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THE OPERATIONAL LEVEL OF WAR:
AFTER THE SMOKE CLEARS

BY

LIEUTENANT COLONEL THOMAS E. HANLON

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THE OPERATIONAL LEVEL OF WAR:
AFTER THE SMOKE CLEARS

An Individual Study Project

by

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Carlisle Barracks, Pennsylvania 17013
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ABSTRACT

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At the conclusion of World War II the United States, in consonance with Great Britain, France and the Soviet Union, embarked on the greatest military government operation of all time -- the occupation or liberation of territory previously controlled by the Axis powers. Today's economic, political and military position of Germany and Japan attest to the effectiveness of post war reconstruction executed in large measure by well prepared civil affairs plans, organizations and trained personnel. This study will attempt to deal with the preparedness of today's senior officer to cope with Civil Affairs/Military Government (CA/MG) across the full spectrum of conflict. Using the experience of WW II as a foundation, this effort will address: doctrinal requirements imposed on the ground commander; the jurisdictional debate over State/Defense Department issues; and CA/MG training, organization and planning then and now. It will not draw any conclusions nor make any recommendations. I leave that to the reader, who I hope is a student of war at the operational level. Hopefully, he will see that operational art extends well beyond battles, campaigns and the defeat of belligerent armies.

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THE OPERATIONAL LEVEL OF WAR; AFTER THE SMOKE CLEARS

CHAPTER I

INTRODUCTION

With the publication of Field Manual 100-5 "Operations", there has been renewed interest in the various levels of conflict -- tactical, operational and strategic. Senior officers are invited to focus beyond the principles of war toward the integration of all the elements of power available to secure national interests. The dimension of time has expanded from the immediate battle or tomorrow's campaign to the political, economic and social position of the belligerent nations on the world stage in the next decade. Identifying the Clauswitzian center of gravity, "the hub of all power and movement, on which everything depends", must be the dominant objective of every commander from the tactical level through strategic level.¹ To the battalion commander the center of gravity may be the command post of the 2d echelon regiment; to the corps commander it may be disabling the front commander from committing his follow-on-force; and for the theater commander it may have nothing to do with combatant forces -- it may be the seat of government of the opposing nation.

World Wars I and II saw the application of operational art implemented to the fullest. Generals Eisenhower and MacArthur

practiced their art with the skill of a surgeon. Certainly, the defeat of Japan and Nazi Germany were clearly defined centers of gravity. However, when studying these great wars in the context of victory or military accomplishments, the operational mission is dwarfed by the strategic mission. A mission which was purely political, negotiated for years between the military and civil staffs of Great Britain and the United States and ultimately approved by the heads of state. Simply stated, that mission was, "eliminating those ideologies and conditions which breed political unrest, economic distress, and military aggression, and of creating a state in which political and economic democracy can survive and flourish."2

The post WW I conditions in Germany of political, economic and social unrest are often cited as the causes which allowed Hitler to take power. In other words, failing to accomplish the strategic mission after WW I led to WW II. Today's balance of power in Asia and strength of the North Atlantic Treaty Organization (NATO) stand in testimony to the successful accomplishment of the strategic mission during and after WW II. Credit for attaining the strategic objectives must go to the same men who prosecuted the operational level -- Generals MacArthur and Eisenhower. Their vision and effective use of Civil Affairs/Military Government (CA/MG) resources ensured that the political instability which followed WW I would be replaced by world-order -- at least between the belligerents. Or, in the ironical words of John Gimbel, Professor of History at Humbolt

University and former member of the 2nd Military Government Regiment: "Thus, the newborn West German government of 1949, which rose out of the ashes of military defeat, was conceived and delivered by the American Army."³ If similar results are the desired strategic ends of any future conflict, studying the art of war must include the commander's responsibility for the civil administration of liberated or occupied territory.

ENDNOTES

1. U.S. Department of the Army, Field Manual 100-5, p. 179 (hereafter referred to as "FM 100-5").

2. Department of State, American Policy in Occupied Areas, p. iii.

3. John Gimbel, "Governing the American Zone of Germany," in Americans as Proconsuls, ed. by Robert Wolfe, p. 102.

CHAPTER II

JURISDICTION

Who should have responsibility for CA/MG? Should it be vested in the Department of State or in the Department of Defense? Jurisdiction over the civil administration of liberated or occupied territory has been debated since the War of 1812 and every conflict since. In all likelihood it will forever remain a controversial and unresolved issue. While there is no clear cut answer, the controversy is understandable. Our government is founded on the principle of civil control over the military in peace and war. The mere thought of the military administering government appears, at least on the surface, to threaten that principle. What is often overlooked is the professional and citizen soldier's allegiance to the Constitution which guarantees civil control will not be subverted.

One thing is perfectly clear and a lesson we relearned as late as Vietnam; "Successful civil affairs effort requires a single focus of authority and responsibility."² To address the subject, it is important to look at history, international law and doctrine.

HISTORY

Occupational planning for Japan and Germany began in the War Department as early as 1939 -- an interesting fact since the war didn't begin until 1941! Literally every branch of

government began to promulgate policy for CA/MG. Prior to the actual commencement of hostilities, no less than 13 governmental agencies were formulating policy for the administration of defeated nations.³ At one point, fearing the power of Mr. Herbert Hoover, even Mrs. Roosevelt got actively involved.⁴

Clearly, occupation was a matter of foreign policy and therefore the exclusive domain of State. Or was it? Just as obvious was the need of the theater commander to secure his lines of communication and military operations from internal threats. It was not difficult to forecast competing interests would collide in the theater of operations. While the field commander had an operational interest in population control, so to did the civil administrators whose job it was to restore order. Fortunately, all recognized that a combat zone was not the ideal place to deconflict jurisdiction. Not until 1943 with the creation of the Civil Affairs Division in the War Department did a coordinated effort begin to take form, and not until Operation TORCH (the invasion of North Africa) did the policies promulgated by this division get put to the test.

It was generally agreed that State would administer to the needs of liberated North Africa with the assistance of the military commander. Before that plan ever materialized, it was obvious the scope of the task simply overwhelmed the capability of the Department. The distribution of relief supplies and control of the population could only be handled by the military infrastructure in place. Simply stated, the military had the

only means of transportation which translated to the only means of policy execution. It was not that Eisenhower wanted the mission out of any personal desire to promote individual ambitions. To the contrary, he wanted nothing more than to have someone else assume the burden of CA/MG. Shortly after the campaign began he wrote General Marshall; "The sooner I get rid of these questions that are outside the military in scope, the happier I will be! Sometimes I think I live ten years each week, of which at least nine are absorbed in political and economic matters....Water supply damaged. No power. No food. No fuel, and corpses all over town to bury."s Although it would not be until 1949 when the reigns of government were completely turned over to the Federal Republic of Germany that Eisenhower would get his wish, the organizational structure that evolved under his command would last for the duration of the war. The State Department attached personnel to the G-5 section of Eisenhower's staff to act as a coordinating agency. In spite of the suspicious nature of the controversy between the various agencies competing for CA/MG control, history reflects, "a remarkable amount of coordination and consideration on the part of all concerned when meeting the political-military problems of the war."s

Not surprisingly, it should be noted that this relationship, which had the effect of subjugating the execution of foreign policy to the military was strongly opposed by President Roosevelt. The mere idea of having the military

administering government to the major population, industrial and economic centers in Europe, Africa and the Pacific Basin openly defied the President's understanding of the constitutionality of civil control over the military. Yet, had proper emphasis been placed on the importance of studying military history, the opponents of uniformed involvement in CA/MG may have been comforted to learn the constitutionality issue had long since been addressed. Citing Supreme Court precedent, the Honorable Charles E. Magoon, Law Officer for the Division of Insular Affairs, reported in 1903 to Secretary of War Elihu Root on the legal status of the American occupied territory of California previously under the sovereign domain of Mexico, "that the military authorities of the United States are not prohibited by the Constitution or institutions of our Government from maintaining governments under requisite conditions,... (Cross et al. vs. Harrison, 16 How., 164,193; Leitensdorfer vs. Webb. 20 How., 176,177.)"7

To address the international dimension of the jurisdictional controversy exceeds the scope of this effort. As many political and foreign policy dissimilarities existed between the United States and Great Britain as did similarities. Britain had widespread pre-war colonization interests in the Mediterranean, while the United States had a more isolationist national attitude. Compound the different views with that of France and the decision making process became even more complex. To get an in depth appreciation for many of

the political clashes that erupted, one can either spend countless hours researching the volumes of data that exists or draw a simple conclusion from the following riddle: "A German, a Frenchman and an American once had a dispute as to which one could write the best article on elephants. The German retired to his closet and tried to devise from his inner consciousness what he thought the habits of an elephant should be. The Frenchman retired to his library and studied the elephant from books. The American went to Africa and studied the animal in his native haunts." All three versions were written with each structured to conform to the experience and behavioral patterns of the author. Each may have been accurate in their own right, but to this day nobody knows which article was the best. In any event, the effectiveness of allied military operations in North Africa quickly dispelled any fear of conflicting interests and the heads of state indorsed the theater commander as the single authority for civil administration. A compromise was struck that would persist throughout the war. Policy planning would be centralized under civil control, promulgated by the president through the JCS to the commander in the field. Deconfliction, if required, was decentralized to the theater commander.

Somewhere between WW II and Vietnam we misplaced what we learned from previous wars and eight years of world conflict. That is, effective civil affairs operations require extensive coordination and centralized execution. In fact, the minimal CA effort we gave to Vietnam does not provide adequate data to

treat the jurisdictional debate in much detail. Nonetheless, there is evidence to support the requirement for centralization under the theater commander. General Westmoreland recognized the need for civil affairs and civic action programs but was hesitant to launch any long range program. His hesitancy seems to stem from the fragmentation of government agencies operating in Vietnam. The BDM Corporation [under contract to the Department of the Army to prepare an extensive lessons learned during the Vietnam conflict] may have adequately summed it up; "The purpose of (civil affairs/action) programs was overcome by institutional inertia and played second fiddle to the individual agency's bureaucratic needs."⁹ Finally, the Civil Operations and Revolutionary Development Support (CORDS) organization was formed and subordinated to Commander U.S. Forces Vietnam (COMUSMACV). Post war analysis of areas with functioning CORDS programs points out that the insurgency lost support and security forces gained popular support. This view was reinforced by former North Vietnamese officials on the televised documentary "Vietnam: the Ten Thousand Day War". They cited two CORDS programs -- Pacification and Phoenix -- as being extremely effective against their influence in rural areas. General Weyand supported the findings of BDM when he reported to a CA/MG convention in 1977, "in retrospect, we failed in that military effort in Southeast Asia, because we did not give civil affairs the attention it deserved."¹⁰ What we did was conduct combat operations in isolation from civic action programs. Perhaps we

would have been more successful had we conducted civil programs supported by security operations -- both planned by the same commander.

Sir Arnold Wilson, who spent six years in the civil administration of Mesopotamia from 1914 to 1920 stated that five principles must be followed for a successful civil administration:

"(1) the commander of an army in the field should be the supreme and only lawful authority in the occupied territory; (2) the security and welfare of the occupying forces should possess paramount importance; (3) experience had demonstrated that the best way to achieve such security was to upset as little as possible the normal life of the inhabitants, to force them into a life of strict neutrality, and to punish severely a few offenders found guilty by duly constituted civil or military courts rather than to introduce a large number of irritating requisitions; (4) military courts should be set up to deal with offenses against the security of the occupying forces, but their function should be taken over as soon as practicable by civil courts empowered to administer existing laws and such changes thereof as were found necessary by the occupational authorities; and (5) unity of control would be ensured by the appointment by the Army commander of a chief civil authority to administer the occupied territory."

Sir Arnold's first principle was followed in World War II with a great deal of success. It was not followed by either the United States or the government of South Vietnam in the early stages of developing counter-insurgency policy in Vietnam, and the result was failure to gain popular support.

THE LAW

Do not spend an inordinately long time researching the law regarding statutory or acceptably binding practices applicable to military government or the civil administration of liberated territory. They simply do not exist. What is covered is the prescribed behavior of an occupying army. Our legal guidance (not statutes) is found in Field Manual 27-10, "The Law of Land Warfare". Paraphrasing, the purpose of the law of war is to: "(1) protect combatants and non-combatants; (2) safeguard certain fundamental human rights; and (3) facilitate the restoration of peace."¹² The Hague and Geneva Conventions provide additional legal guidance though United States officers must exercise a degree of caution with these documents as we have not ratified all the Protocols. In meeting the objectives of the law of war combatants are obligated to follow the rule of "military necessity" which is defined by FM 27-10 as, "that principle which justifies those measures not forbidden by international law which are indispensable for securing the complete submission of the enemy as soon as possible."¹³ If the commander is to be responsible for following the principle of military necessity by applying his force in a calculated rather than in an indiscriminate manner, it logically follows that he must have the authority to control all the combatants and non-combatants in his area.

A responsible commander is the key to the profession of arms, and WW II is replete with examples of allied officers

responsibly applying the spirit and intent of the military necessity principle. One such example occurred shortly after the Normandy invasion. Large concentrations of Dutch nationals under German occupation were being ravaged by famine. The European Civil Affairs Division coordinated an airlift of over 10,000,000 individual rations dropped from allied bombers behind enemy lines. The German commander likewise acted responsibly by ordering the cessation of air defense during the airdrop. Such moral behavior or rationale treatment of the authority contained in military necessity supports the earlier belief of H.A. Smith: "The American officer, when he knows the general policy, can be trusted to carry it out."¹⁴

DOCTRINE

Like all military doctrine, the development of military government has been evolutionary. Although General MacArthur had extensive military government experience in the Phillipines, it was 1940 before a United States Army War College initiative would produce the first publication of Field Manual 41-10, "Civil Affairs: Military Government". The doctrine contained therein clearly affixed responsibility on the field commander. Today Field Manual 100-5, "Operations", the "keystone warfighting manual"¹⁵, echoes the flavor of the first CA/MG manual, "Commanders at both operational and tactical levels must coordinate...civil-military operations."¹⁶

The term "coordinate" often mitigates against fixing responsibility. Field Manual 100-16, "Support Operations: Echelons Above Corps" treats the subject more authoritatively: "Civil Affairs (CA) is a command responsibility."¹⁷ Field Manual 41-5, "Joint Manual for Civil Affairs" (originally applicable to all services) leaves little room for discussion: "The mission of a military commander includes the responsibility for actions to secure local understanding and support-to reduce or minimize the frictions inherent in the stationing or deployment of U.S. military forces; This responsibility, inherent in command, cannot be delegated."¹⁸

Some may argue that FM 41-5, dated 1966, has lost its authority if for no other reason than antiquity. Still others contend it only applies under peacetime conditions for forces forward deployed. Those arguments are quickly dispelled by more current publications. Field Manual 41-10, "Civil Affairs" and Joint Chiefs of Staff Publication 2, "Unified Action Armed Forces" succinctly affix responsibility (in fact Department of Defense proponency) to the Chief of Staff, Army during peacetime and the Army component commander during war. A review of existing Operations Plans (OPLANS) reveals that CA/MG functions are specified missions of the Army component commander.

SUMMARY

Some will continue to debate the issue of State/Defense jurisdiction, contending that the complexity of world politics and advances in telecommunications have changed the stakes involved and the speed at which the National Command Authority can process information and transmit decisions to commanders in the field. However, history, international law and defense doctrine are not on their side. Tomorrow's Army commander, regardless of echelon --tactical, operational and strategic-- will be responsible for the conduct of "Matters concerning the relationship between military forces located in a country or area and the civil authorities and people of that country or area. This relationship may occur prior to, during, or subsequent to military action in time of hostilities or other emergency..."¹⁹

ENDNOTES

1. As used here, jurisdiction refers to the broader definition of "range of authority" rather than the traditional legal application of "administering of justice."

2. BDM Corporation, Lessons Learned in Vietnam, p. 14-42.

3. The following is a sampling of the agencies with a vested interest in pre-war CA/MG operations: Departments of State, War, Navy, and Agriculture; Board of Economic Warfare; War Production Board; National Research Council; League of Nations; and International Labor Office. There was also a significant representation from the academic sector -- particularly law theorists and practitioners. Imagine the complexity of developing a consensus from such a wide variety of interest groups!

4. Dan C. Allen, Franklin D. Roosevelt and the Development of an American Occupation Policy in Europe, p. 14.

5. Harry L. Coles and Albert K. Weinberg, "Civil Affairs: Soldiers Become Governors", United States Army in World War II, p. 3.

6. Allen, p. iii.

7. Charles E. Magoon, The Law of Civil Government in Territory Subject to Military Occupation by the Military Forces of the United States, p. 12.

8. H.A. Smith, Military Government, p. 93,

9. BDM, p. 14-59.

10. William R. Swarm, "Impact on Americans", Americans as Proconsuls, p. 434.

11. Gerhard von Glahn, The Occupation of Enemy Territory, p. 264.

12. U.S. Department of the Army, Field Manual 27-10, p.3.

13. IBID., p.4. Not all nations take the restrictive position of the United States, i.e., military necessity may not circumvent the law. The Germans subscribed to an "anything goes" approach. They believed military necessity was absolute, and operations were not restricted by any law.

14. Smith, p. 10.

15. FM 100-5, p. i.

16. IBID., p. 40.

17. U.S. Department of the Army, Field Manual 100-6, p. 11-1.

18. Joint Chiefs of Staff, JCS Pub 2, p.1.

19. Coles, p. 3.

CHAPTER III

MISSION

"The story of Civil Affairs in World War II, as it emerges from the documents, reveals the effort to perform a mission unprecedented in complexity and size. The mission called for military, political, and economic activity on every level -- from the job of rebuilding a village bakery to the job of rooting out and replacing Fascist and Nazi ideology and institutions."¹

Operation OVERLORD (the invasion of Europe), and the ensuing campaigns to destroy the armies of the Third Reich, present a firm foundation for study of the operational level of war in the twentieth century. CA/MG operations during and after OVERLORD afford an opportunity to study the bridge between the operational and strategic levels. No one will argue the magnitude of the task confronting allied armies and their commanders on D-Day. Integrating the combat power and sustainment of multiple forces from multiple nations was a mission of staggering dimensions. By comparison, the directive given to General Eisenhower regarding the military government of Germany made OVERLORD seem like the proverbial "tip of the iceberg". JCS Directive 1067 issued to Eisenhower by General Marshall in April of 45 gave him the responsibility of "supreme legislative, executive, and judicial authority in the areas occupied by forces under your command. This authority will be

broadly construed and includes authority to take all measures deemed by you necessary, appropriate or desireable in relation to military exigencies and the objectives of a firm military government."²

While the scope of CA/MG during WW II was of monumental proportions, the principles employed, lessons learned and problems encountered are equally important today regardless of the level of conflict. "It does not matter, ..., whether it is a combat situation or a postcombat situation. It does not matter whether the devastation or disruption of the services is caused by an atomic bomb or by a conventional weapon, or by guerilla activity. The fundamental thing involved here is the civil affairs organization puts together and encourages the establishment of government services to take care of the needs of the people,..."³ Operation URGENT FURY (the United States incursion into Grenada) illustrates the need for CA involvement at the low end of the conflict spectrum. It also points out that problems encountered in the CA arena are frequently outside the realm of traditional military operations, yet they are problems for the theater commander to resolve.

Take for example the restoration of telephone service to Grenada. At first glance, this would not appear to be a Herculean effort until you discovered the existing equipment was manufactured in East Germany. Finding spare parts and technicians in the Caribbean experienced on East German telecommunications presents an interesting challenge.

IDENTIFYING INDIGENOUS GOVERNMENT

Ironically, the first mission of CA/MG is to terminate military government as soon as possible. In addition to being implied in Sir Arnold's third principle [upset as little as possible the normal life of the inhabitants], valid operational reasons exist to transfer government functions to civil authority as soon as practicable. The first is the resource requirement of the civil administration effort. Extensive use of combat support and combat service support organizations, which would otherwise be available to support combat operations, is required. Secondly, an occupying force projects the image of conqueror. This leads to feelings of oppression and resentment by the population which in turn increases the likelihood of disruptive behavior. The result is the commander must commit combat forces to the internal security mission. Finally, historical precedent, which has been interpreted as customary law, supports the role of indigenous resources in the administration of government, "Just as an occupant is bound (subject to certain exceptions) to maintain the laws in force in occupied enemy territory, so is he forbidden to change the internal administration of the area. By that is meant that he may not substitute a new indigenous governmental structure or change internal boundaries, except, in the latter case, on a temporary basis to protect the safety of his armed forces and to realize the purposes of the war."* General Marshall recognized this requirement early in the direction he gave the Civil

Affairs Division:... "to get the Army out of government as quickly as" possible.⁵

To meet the objective of expeditious transfer of government, it is critically important to identify (or establish) an indigenous infrastructure. Identity or recognition of legitimacy is clearly a political responsibility of the State Department and the President. It was true in WW II and it is true today. Commanders need not and should not become actively involved in the designation of governments. Unfortunately, the chaos of war often causes conflict between theory and practice.

The world before WW II was characterized by colinization with France and Great Britain being major colonial powers in the Mediterranean and Pacific. Now they were engaged in a war to liberate previously colonized territory. France alone had three distinct claims as the legitimate seat of government: (1) pre-war government overseeing the administration of French interests in North Africa; (2) symbolic government in France under German occupation; and, (3) a government in exile. With whom do you deal? Wrestling with that question influenced the operational and strategic decisionmakers before, during and after the war.

Once the legitimate authority has been identified, the commander can expect the unexpected. As the allied armies advanced up the Italian peninsula toward the German heartland, they matured in dealing with local Italian civil authorities.

Recognizing the pre-facist democratic structure in Italy, the allies restored (as much as possible) those officials with previous government experience. The military government adopted an indirect supervisory approach allowing the Italians to self-govern. Supervision was largely limited to technical areas where local officials lacked expertise or capability. This approach created a cooperative environment which served to relieve the pressure on an already overtaxed CA organization. When Rome was liberated, Marshal Badoglio's government (officially recognized by the allies as legitimate) declared war on Nazi Germany. In effect, the Italians went from being an enemy to a co-belligerent and local territory went from being occupied to liberated. The national unification spirit that followed served the developing Italian government and advancing allied armies. However, upon reaching the northeast corner of what was sovereign territory of Italy, they encountered a group of Yugoslavian partisans under the leadership of Tito. The partisans were a formidable fighting force and claimed to be the instrument of government of Yugoslavia. They were effective fighting the Nazis and now claimed to be the occupying power. To the field commander went the responsibility of deciding how to deal with an armed force outside the sphere of direct allied influence. The options considered went from complete disarmament of all partisan groups to integrating partisan forces with allied armies. A strategy of co-existence was adopted. The partisans continued autonomous operations with allied support.

Again, Grenada provides a current look at identifying the legitimate government in a low intensity situation. The Reagan administration wanted to get in and out as soon as possible. To do that, it was essential to identify a legitimate civil administration free of direct U.S. involvement but aligned with the democratic process. Fortunately it was the constitution of the deposed Grenadian government that provided the legal civil service infrastructure to administer government. The constitutional authority of Governor General Scoon and his availability combined to facilitate a smooth transition and expeditious removal of U.S. security forces. It should be remembered that Governor General Scoon was physically isolated for over 72 hours following the invasion. Had he been taken hostage or had he become a casualty of the conflict, the Army component commander may well have emerged as the legal and doctrinally responsible Military Governor of Grenada. On his shoulders, in cooperation with the Department of State, would have fallen the task to "reconstruct, perhaps reinvent, a political system that was acceptable both to a society traumatised by dramatic and tragic events and to Washington and its regional allies."

Identifying legitimate authorities in today's world is no less complicated than it was in WW II. Imagine for a moment the difficulty a commander may have (or some have had) dealing with the proliferation of factions in Lebanon contending for recognition of legitimacy. In the absence of policy guidance, or

in the face of competing interest groups, military necessity gives the commander the burden of government.

CA/MG FUNCTIONS

A simplistic approach to identifying CA/MG functions is to refer to Appendix A of Field Manual 41-10, "Civil Affairs Operations"⁷. They haven't changed in the last two centuries, and they probably won't for the next two. Listed below are but a few of the functions which had significant importance in the history of CA/MG operations:

- * Identify and remove officials whose service would be adverse to our national interests.
- * Prevent unauthorized acquisition of public funds.
- * Plan and supervise rationing programs.
- * Prevent black-market activities.
- * Manage communication resources which include radio, telephone, postal services, television, telegraph, and public warning systems.
- * Locate, identify, determine ownership, and safeguard arts, monuments and archives.
- * Disseminate proclamations, ordinances and orders.
- * Implement civil censorship policies.
- * Control, care for and evacuate dislocated persons.
- * Establish camps for dislocated persons.

Applying these functions in a combat environment must be balanced against legal, moral and political considerations as

well as the resources available. That is the primary challenge facing tomorrow's military governor---today's senior officer.

LEGAL CONSIDERATIONS

As stated in Chapter II, a host of CA/MG functions are not covered by any international convention. Many will have binding provisions in pre-war treaties, international agreements or political commitments such as those made at Yalta during WW II. Therefore, it is paramount that commanders and administrators constantly confer with the servicing International Law Team of The Judge Advocate General's Corps. A few examples of the less obvious, but nonetheless important, legal implications of CA/MG functions may serve to illustrate the point.

A post-war mission assigned General Eisenhower was the "denazification" of Germany. Certainly implied in that task was a review, if not rehabilitation, of the education system established by the Third Reich. Common sense and anti-nazi sentiment of the time would suggest the complete dismantling and replacement of the existing system with one patterned after an allied model. In other words "Americanize" the German system. Except for areas which specifically threaten the security of the occupation force, international law prohibits educational restructuring in occupied territory solely to conform to the cultural values or purposes of the occupying nation.

A second area where the absolute power of the occupant may attempt to prevail is the implementation of laws governing the

inhabitants. Although the authority exercised by an armed force over the lands, properties and inhabitants is "supreme"^a, it is not absolute. In fact, regarding penal codes and administrative law, the occupying commander's authority is quite restricted. Article 43 of the Hague convention obligates the occupant to respect, "unless absolutely prevented, the laws in force in the country."^s

Finally, the restoration of economic order has legal requirements and political consequences. While an occupying force has the duty to restore economic order, it has a concurrent obligation not to restrict economic development. Denying occupied territories entry into external markets or instituting wage and price controls which purposely favor economic growth in the occupant's nation would be considered restrictive and thus, prohibited. In short, economic practices and restrictions must favor the occupied vice the occupants.

Awareness of the legal consequences of CA/MG functions is not enough. Being actively involved with the supporting International Law Teams is required. Being totally reliant on the legal community for functional planning and execution is dangerous. "There has been an attempt, perhaps an unconscious one, on the part of certain army lawyers to cloud and befuddle this subject of military government. They often speak of it as some mysterious thing beyond the pen of the ordinary officer. It reminds one of the way artillerists in former years attempted to make mysterious their profession, hoping thereby to exalt it

into a sacred profession. There is nothing mysterious about military government; it is not even in the main a legal problem, but purely a military and administrative one."¹⁰

SUMMARY

Whether it is assisting a host nation or providing military government, the civil administration mission is complex and dynamic. It requires detailed understanding, acknowledgement and sometimes even recognition of all interest groups competing for post-conflict positioning within government. In a manner of speaking, it is an art form framed by the law, politics, human rights and military necessity. How well we are trained and organized to execute the mission is a question for serious concern.

ENDNOTES

1. Coles, p. 3.
2. Joint Chiefs of Staff, JCS Directive 1067, p. 1.
3. Swarm, p. 433.
4. von Glahn, p. 96.4.
5. Edward N. Peterson, "The Occupation as Perceived by the Public, Scholars and Policy Makers", Americans as Proconsuls, p. 420.
6. Anthony Payne, Paul Sutton and Tony Thorndike, Grenada: Revolution and Invasion, p. 178.
7. Appendix A "Functional Specialty Tasks", to Field Manual 41-10, "Civil Affairs Operations" is attached to this study as Appendix 1. By comparison, in WW II the War Department printed over 150 pamphlets outlining CA/MG procedures ranging in subject matter from agriculture in Germany to wage control in

Japan -- and everything in between.

8. von Glahn, p. 263.

9. U.S. Department of the Army, Field Manual 27-10, p. 141.

10. Smith, p. 25.

CHAPTER IV

ORGANIZATION AND TRAINING

"It is extremely unfortunate that the qualifications necessary for a civil administration are not developed among officers in time of peace." That comment was made by Colonel Irwin Coles, Officer in Charge of Civil Affairs for the American Expeditionary Force in WW I. It could have been repeated prior to WW II and Vietnam. If the level of detail we give CA/MG in the current officer education system is any indicator, it may be true today.

TRAINING

Prior to WW II, the United States Army was literally void of any trained CA/MG personnel or the capability to provide training. We were so ill-prepared that we did not even have a frame of reference to identify the parameters that would "qualify" a candidate for CA/MG training.

A massive recruiting campaign was launched by the War Department. The campaign rightfully focused on: personnel with current or prior service in the State Department; the academic environment; and, personnel with skills in municipal government or administration. Because of numerous similarities between European and American forms of government, coupled with a national heritage linked to Europe, identifying subject matter experts for duty on the western front was relatively easy compared to finding experts in Asian affairs. At the same time

we are incarcerating Americans of Japanese descent, we are looking for people who understood a nation, "outside the traditions of Western culture" and who appreciated "...an economic and political system of ancient lineage, great sophistication, philosophical coherence, and impressive efficiency."²

The question of jurisdiction which plagued policymakers was also present in determining proponentcy for training. No sooner had the first Military Government school opened than those factions competing for control began an onslaught of public criticism. The battle raged for two years. Finally, President Roosevelt intervened and admonished all those involved with what he described as an "in-house" controversy. He further directed all disagreements be referred to him for resolution.³

Three separate but related training programs were conducted. The first, and perhaps the center of importance, was the Military Government School at Charlottesville, Virginia. Opened at the direction of the Adjutant General, students underwent four months of training under the tutelage of a hand picked faculty of legal and political science experts. For the most part, the faculty represented the leading universities in the nation -- Harvard, Yale, Columbia, Virginia, etc. Many of the early graduates went on to prominence during and after the war.

The second school was a 30 day program administered by the Provost Marshal at Fort Custer, Michigan. Upon completion of the resident phase, graduates would undergo three months of

internship at a major university. The civil institutions were largely selected by the ethnic focus of their curriculum, faculty, or location.

Finally, a 60 day company officers course was offered at ten separate locations throughout the nation. Attendees were not destined exclusively to be CA specialists, but rather to ensure a base of CA/MG familiarity existed throughout the warfighting infrastructure.

Today's institutional training center for CA/MG is the John F. Kennedy Special Warfare School, located at Fort Bragg, North Carolina. The pinnacle of training is the Civil Affairs Officer Advanced Course. The core of this curriculum is largely civil affairs with military government relegated almost to the point of insignificance. In fact, only one hour of instruction is provided on military government.

At first glance, our current training effort seems somewhat skeletal compared to the effort required to train personnel during WW II. (Actually, a second, third or fourth glance doesn't change the obvious.) However, to get a better picture of readiness as a function of training, it is important to look at the make-up of today's CA specialist.

In the wake of declining force structure, it is not surprising to find the bulk of our CA effort in the Reserve Component (RC). The demographics and background that produced the qualified candidates for attendance at Charlottesville in the 1940s is largely present in today's CA officer. It is not

uncommon to find political science professors, lawyers, judges, police chiefs and senior civil service administrators assigned to RC CA units. For example, Attorney General Meese, though perhaps not typical, has an extensive background in RC CA assignments. The point is, the civil education and day-to-day functions of RC CA personnel have a rightful (and perhaps dominant) place in the evaluation of CA/MG training. Unit training may be another issue.

"Units and headquarters that will fight together in teams, task forces, or larger units should train together routinely."* Anyone with experience in RC unit training will have to question just how often CA/MG units train with their supported units. The number of days per year allocated for training, the amortization of those days throughout the training year and the burden of attending to administrative requirements all suggest collective training is probably not conducted "routinely". One source, when asked how often RC CA units, RC International Law Teams and supported headquarters conduct collective training indicated that it was coincidental. Rarely do they conduct command post or field training exercises.

Since the conduct of CA/MG is a command responsibility and the Army is the service component, it follows that a look at training requirements outside the proponent CA community may be in order. Article 83 of Protocol I to the Geneva Conventions requires: "Any military or civilian authorities who, in time of armed conflict, assume responsibilities in respect of the

application of the Conventions and this Protocol shall be fully acquainted with the text thereof."6 Standard Agreement (STANAG) number 2065, which exists between member nations of the NATO Alliance, binds participants for "basic orientation in civil affairs to be provided for all active duty military personnel prior to or during movement overseas,"and,"all officers on active duty will be given instruction to impart a general knowledge of civil affairs organization and operations."6 My personal experience and training include two assignments to Germany and attendance at both the Army Command and General Staff and the Army War Colleges (AWC). The only formal training that background provided in satisfaction of the above requirements was an elective program offered at the AWC.

ORGANIZATION

The veterans of CA/MG operations in WW II spent the post war years, "establishing [CA/MG] policy, procedures, organizations, training etc., so that the United States would never again have to cope with a war situation without benefit of an in-being Civil Affairs Military Government readiness capability."7 How well their legacy has been followed generates considerable debate. A point can be made that the organizational architecture they created remains in effect today -- albeit almost exclusively in RC units

Prior to operation OVERLORD the European Civil Affairs Division under Eisenhower's command had assigned 2709 officers,

130 warrant officers and 5424 enlisted personnel directly involved with the civil administration of liberated or occupied territory. Three jumped in on D-Day with the 101st Airborne. These resources were organized on the concept of functional and/or regional tailoring. The size and focus of each established detachment depended on a wide variety of variables: the self administrative capability of the area; importance of the area to on-going combat operations, i.e., ports, transportation centers, communication facilities, etc.; and, the general state of public welfare -- to name a few. Unlike most combat service support units, the detachments did not advance with the combat forces. New ones were created as areas were liberated or occupied. Continuity of support to the civil structure overruled the traditionally accepted practice of continuity of support to the combatant commander such as is usually found between a direct support artillery battalion and a divisional brigade. As the COMMZ unfolded and the number of detachments grew, regional headquarters were established. Ideally, these headquarters paralleled the hierarchy of host nation government structure. The system worked well and can be found in the doctrinal structure of today.

CA organization still follows a tailoring methodology, attaching some or all of twenty functional specialties to the supported commander. Sizing the organization depends on the same variables that influenced WW II planners:

- * Conflict nature, i.e., general war, foreign internal defense, or counterinsurgency.
- * Security of the area.
- * Fluidity of the military situation.
- * Attitude of the civilian populace.
- * Density and distribution of the population.
- * Development of the area.
- * Availability of host nation assets.
- * Availability of basic needs (food, water, etc.).
- * Civilian medical situation.
- * State of law and order.
- * Damage to facilities and systems.⁸

Commanders and staff planners should be aware that International Law Teams are organized outside the CA/MG structure. Thus, the Staff Judge Advocate is responsible for coordinating the attachment of legal teams as required.

If the scope of the task organization and the Time Phased Force Deployment Lists of CA units in existing Operations Plans (OPLANS) are any indicators of our current readiness -- at least in the planning cycle -- we have adhered to the organizational lessons provided by those earlier veterans.⁹

ENDNOTES

1. Coles, p. 6.
2. Ralph Braibanti, "The MacArthur Shogunate in Allied Guise", Americans as Proconsuls, p. 77.

3. Allen, p. 24.
4. FM 100-5., p.6.
5. U.S. Department of the Army, Pamphlet 27-1-1, p. 62.
6. U.S. Department of the Army, Field Manual 41-5, p.23.
7. Swarm, p. 401.
8. U.S. Department of the Army, Field Manual 41-10, pp. 2-2, 2-3.
9. The classification of this effort and access to real-world Operation Plans (OPLANS) prevents any in depth treatment of our ability to resource deployment requirements. One OPLAN reviewed was extremely detailed. It covered most of the areas recommended by FM 41-10. It even provided sample proclamation orders that could easily and quickly be applied under contingency circumstances. It also identified the numbered CA units to support the Army component commander.

CHAPTER V

SUMMARY

Since virtually the dawn of time, nations have used military force as an instrument of national and foreign policy. Many are likely to do so in the future, and the United States does not have an exemption status. Our current modernization, forward deployed strategy and naval build-up supports our resolve to project power should deterrence fail. We organize and train to win. Or do we? If winning includes conflict termination on terms favorable to long range goals and interests, then winning is not complete until political stability and public order have been achieved. That is the strategic challenge facing today's senior officer. How well he is prepared can only be answered through self-evaluation.

History, the law and current doctrine all attest to the fact that the Army commander's mission does not stop when a hostile force capitulates -- some say at this point it only begins. What have you learned from the history of CA/MG? Why have authoritative experienced authors literally vanished since the late 1950s? When is the last time you purposely read an article on the subject? Better yet, when is the last time you saw an article in a professional military journal?

If CA/MG has roots in the law and our respect for the law forms the cornerstone of our national heritage, why are the conventions that restrict and permit combat operations absent

from the professional education of our officers? If FM 100-5 is or "keystone" warfighting manual and it identifies civil-military operations as a major functional area that "commanders at both operational and tactical levels must coordinate",¹ why is FM 27-10, "The Law of Land Warfare" not listed as a referenced publication?

Assuming we accept the responsibility for training our soldiers, when is the last time your training schedule reflected civil affairs functions or the standards of conduct for an occupying force? Have you ever included the subject in an officer professional development program? When is the last time you opened FM 27-10? Do your subordinates know of its existence?

Since FM 100-5 requires us to train routinely with the units we will support or those that will support us, when is the last time you conducted collective training with your CAPSTONE RC Civil Affairs unit? Have you ever provided them an overview of what you perceive to be their mission? Do you know who and where they are?

Though not endless, the list could fill several more pages. To you, I defer the answers. You may wish to compare your assessment to that of former Chief of Staff, General Fred Weyand: "As a matter of fact, a trained Civil Affairs officer is the most potent [force multiplier] the Army has. We have at worst ignored the decisive potential of Civil Affairs in our defense of the democratic system, and at best we have used our Civil Affairs resources with far less optimum effectiveness. We

have never been adequately prepared in the field of Civil Affairs. We have never accepted the fact that people -- not equipment -- win wars. There is no military force in the world as adept as the United States in integrating firepower and bringing it to bear on the enemy, and yet, until we learn how to integrate our economic, political and sociological resources and bring them to bear in support of our military objectives, we can never be certain of victory, no matter how much material, blood and lives we expend."²

ENDNOTES

1. FM 100-5., p. 40
2. Fred Weyand, Statement of the Army Chief of Staff to the Annual Civil Affairs Conference, p.5.

APPENDIX 1

Appendix A "Functional Specialty Tasks", to Field Manual 41-10, "Civil Affairs Operations", December, 1985.

APPENDIX A

FUNCTIONAL SPECIALTY TASKS

The following (Figure A-1) outlines some of the major tasks associated with the 20 functional specialties when they are performed by a CA unit, element, or team conducting support operations. This checklist is provided as a starting point for use by CA operators and planners.

Civil Defense	<p>Ensure an adequate civil defense structure exists.</p> <p>Advise, assist, or supervise local civil defense officials.</p> <p>Assess civil defense planning for emergency welfare services and emergency food, water, sanitation, and medical supplies.</p> <p>Coordinate civil defense activities of fire, police, and rescue personnel with those of the military.</p> <p>Integrate local civil defense agencies into the military nuclear, biological, chemical (NBC) warning system.</p> <p>Coordinate explosive ordnance disposal activities in the civilian sector.</p> <p>Issue instructions on defense measures for NBC attack and monitor the control of mass casualties resulting from NBC warfare.</p> <p>Identify civilian NBC shelters and assess their suitability.</p> <p>Identify civilian evacuation routes and assess their adequacy.</p> <p>Ensure that NBC protective measures are included in civil defense plans and that available NBC protective equipment is acquired.</p>
Labor	<p>Coordinate requirements for local labor support for military forces.</p> <p>Ensure US compliance with international laws and conventions regarding use of civilian labor.</p> <p>Direct local government agencies in planning, establishing, and administering labor programs.</p>

Figure A-1. Functional Specialty Tasks.

FM 41-10

Legal	<p>Advise and assist local judicial agencies in administering the legal system in coordination with the servicing SJA.</p> <p>Establish supervision over the local judiciary system, establish civil administration courts, and help in preparing or enacting necessary laws for the enforcement of US policy and international law.</p>
Public Administration	<p>Provide liaison to the military forces.</p> <p>Survey and analyze the operation of local governmental agencies, their structure, centers of influence, and effectiveness.</p> <p>Advise, assist, supervise, or direct governmental agencies.</p> <p>Recommend and, within the limits of authority, implement governmental functions, policies, and procedures for the conduct of government.</p> <p>Identify officials whose continued service would be adverse to US interests and remove them from office.</p> <p>Recommend for appointment to key offices individuals who are respected civilians of the area and who would best serve the interests of the US. Individuals must be cleared by military intelligence prior to nomination.</p>
Public Education	<p>Provide technical advice and help in planning and implementing needed education programs.</p> <p>Supervise schools and screen personnel and materials in the education system for compatibility with US objectives and interests.</p>
Public Finance	<p>Provide technical advice and assistance regarding budgetary systems, monetary and fiscal policies, revenue-producing systems, and treasury operations.</p> <p>Control assets of the treasury and financial institutions and prescribe monetary and fiscal policies and other regulatory measures.</p> <p>Assist local officials in preventing the unauthorized acquisition of public funds.</p>
Public Health	<p>Estimate needs for additional medical support required by the civilian sector.</p> <p>Coordinate acquisition of medical support from voluntary agencies or US military sources.</p>

Figure A-1. Functional Specialty Tasks (continued).

	<p>Coordinate the use of civilian medical facilities and supplies by US military forces.</p> <p>Aid in the prevention, control, and treatment of endemic and epidemic diseases of the civilian populace.</p> <p>Survey and provide assistance with civilian health care (medical personnel, facilities, training programs, and veterinary services) and provide guidance for provision of emergency services by US personnel.</p> <p>Analyze, survey, supervise, and/or direct civilian public health and sanitation services, personnel, organizations, and facilities.</p>
Public Safety	<p>Coordinate public safety activities for the military forces.</p> <p>Provide liaison between the military forces and public safety agencies and coordinate the control of civilian movement.</p> <p>Advise, assist, or supervise local police, fire fighting, rescue agencies, and penal institutions.</p> <p>Supervise the enforcement of all laws and ordinances after the populace has been duly informed.</p> <p>Take into custody all arms, ammunition, implements of war, and contraband items.</p>
Public Welfare	<p>Determine the type and amount of welfare supplies needed for emergency relief.</p> <p>Plan and coordinate for the use of welfare supplies from all sources.</p> <p>Advise and assist the host government.</p> <p>Establish and supervise emergency centers for distributing supplies and for housing and feeding civilians.</p>
Civilian Supply	<p>Determine the availability of local supplies for civil and military use.</p> <p>Coordinate military needs for local resources and coordinate their acquisition.</p> <p>Determine the needs of the populace for emergency supplies and arrange for distribution in accordance with policy.</p> <p>Coordinate the movement of essential civilian supplies.</p> <p>Plan and supervise rationing programs.</p> <p>Arrange salvage of captured supplies that can be used by the civilian populace.</p>

Figure A-1. Functional Specialty Tasks (continued).

FM 41-10

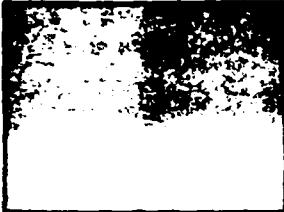
	<p>Advise and assist allied governments in the above tasks, when appropriate.</p> <p>Direct governmental and commercial supply activities.</p>
Economics and Commerce	<p>Determine the availability of local resources for military and civilian use.</p> <p>Determine the economic controls being used and the governmental structure related to economics and commerce.</p> <p>Help in developing and executing price control and rationing programs.</p> <p>Direct support needed to keep key industries operating.</p> <p>Advise, assist, or direct governmental economic and commercial agencies.</p> <p>Develop and implement plans to prevent black-market activities.</p>
Food and Agriculture	<p>Provide advice and assistance in establishing and managing crop improvement programs, agricultural training, use of fertilizers and irrigation, livestock improvement, and food processing, storage, and marketing.</p> <p>Direct the governmental food and agricultural agencies.</p> <p>Identify areas of staple crops and areas of surplus and deficit foodstuff, and devise a means to distribute the surplus and eliminate the deficit.</p> <p>Identify locations and capacities of livestock, food processing, storage, and marketing areas.</p>
Property Control	<p>Identify private and public property and facilities available for military use and recommend policy and procedures to obtain them.</p> <p>Coordinate military acquisition of civilian property and facilities needed by military forces.</p> <p>Establish policies and procedures concerning custody and administration of private and public property.</p> <p>Control negotiable assets and resources of potential military use that are not otherwise under the supervision of other agencies.</p>
Public Communications	<p>Manage communication resources, both government and private, to include postal services, telephone, telegraph, radio, television, and public warning systems.</p>

Figure A-1. Functional Specialty Tasks (continued).

	<p>Coordinate the use of government and private communication resources for the military.</p> <p>Provide technical advice and assistance on communication systems.</p> <p>Recommend the allocation of civilian communication resources for civilian and military use.</p> <p>Direct civil communication agencies and provide advice, assistance, and supervision, as required.</p>
<p>Transportation</p>	<p>Identify the modes and capabilities of transportation systems available in the civilian sector.</p> <p>Coordinate the use of locally available assets, to include railroads, highways, ports, airfields, and motor vehicles to support military operations.</p> <p>Prepare plans for the use of available civilian and military transportation assets for emergency civilian evacuation from combat areas or transportation of relief supplies.</p> <p>Provide advice and assistance in establishing and operating transportation facilities.</p> <p>Direct civilian transport agencies and functions.</p>
<p>Public Works and Utilities</p>	<p>Coordinate public works and utilities support for military operations.</p> <p>Advise and assist in the construction, operation, and maintenance of public works and utilities.</p> <p>Direct public works and utilities operations.</p>
<p>Arts, Monuments, and Archives</p>	<p>Prepare a list and map overlay showing the location of significant cultural properties requiring special protection. Include the name and significance of the persons or organizations having custody.</p> <p>Provide information for use in public affairs command information programs to inform all military personnel of directed actions concerning arts, monuments, and archives.</p> <p>Prepare plans and directives for the protection of arts, monuments, archives, and other cultural properties.</p> <p>Coordinate military support for the NBC decontamination of cultural properties.</p>

Figure A-1. Functional Specialty Tasks (continued).

FM 41-10

	<p>Advise, assist, or direct the restoration of cultural properties that have been damaged.</p> <p>Help in locating, identifying, determining ownership, and safeguarding arts, monuments, and archives.</p>
<p>Civil Information</p>	<p>Advise, assist, supervise, control, or operate civil information agencies.</p> <p>Disseminate proclamations, ordinances, and notices.</p> <p>Advise and assist allied governments, when required.</p> <p>Implement civil censorship policies.</p>
<p>Cultural Affairs</p>	<p>Provide information to military forces on the social, cultural, religious, and ethnic characteristics of the local populace. Develop codes of behavior to educate US forces in order to reduce acts contrary to local customs and practice.</p> <p>Locate and identify religious buildings, shrines, and consecrated places and recommend restrictions on their use.</p> <p>Act as disinterested third party in negotiations between opposing ethnic, cultural, religious, and social groups in the area.</p> <p>Function in a liaison capacity between US commanders and leaders of local social, cultural, religious, and ethnic groups. Participate in negotiations with these groups when necessary.</p> <p>Consistent with mission requirements, recommend methods and techniques of operation that will be most acceptable to the local population.</p>
<p>Dislocated Civilians</p>	<p>Estimate the number of dislocated civilians, their points of origin, and their anticipated direction of movement.</p> <p>Plan movement control measures, emergency care, and evacuation of dislocated civilians. Coordinate with military forces for transportation, military police support, military intelligence screening/interrogation, and medical activities, as needed.</p> <p>Advise on or establish and supervise the operation of temporary or semipermanent camps for dislocated civilians.</p> <p>Resettle or return dislocated civilians to their homes in accordance with US policy and objectives.</p> <p>Advise and assist host country and US agencies on camps and relief measures for dislocated civilians.</p> <p>Supervise the conduct of movement plans for dislocated civilians.</p>

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